



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making**Agency:** Department of Social and Health Services, Aging and Disability Services Administration

- ☒ **Preproposal Statement of Inquiry was filed as WSR 10-19-103 ; or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR _____; or**
☐ **Proposal is exempt under RCW 34.05.310(4).**

- ☒ **Original Notice**
☐ **Supplemental Notice to WSR**
☐ **Continuance of WSR**

Title of rule and other identifying information: (Describe Subject)

The department is creating a new chapter under Title 388 WAC, Department of Social and Health Services. The title of the new chapter is "Residential Habilitation Centers – Compliance Standards." Please see Attachment A for the specific sections.

Hearing location(s):

Office Building 2 - Auditorium
(DSHS Headquarters)

1115 Washington

Olympia, WA 98504

Public parking at 11th and Jefferson. A map is available at:
<http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>
or by calling 360-664-6094.

Date: **February 8, 2011** Time: **10:00 a.m.**

Date of intended adoption: Not earlier than February 9, 2011
(Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: DSHS Rules Coordinator

Address: PO Box 45850, Olympia WA, 98504-5850

Delivery: Office Building 2 (DSHS Headquarters)
1115 Washington, Olympia, WA 98504

E-mail: DSHSRPAURulesCoordinator@dshs.wa.gov

Fax: (360) 664-6185

by

5 p.m. on February 8, 2011

Assistance for persons with disabilities: Contact Jennisha Johnson, DSHS Rules Consultant by January 25, 2011

TTY (360) 664-6178 or (360) 664-6094 or

by e-mail at jennisha.johnson@dshs.wa.gov

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

See attachment. The purpose of creating this chapter is to formalize the due process rights and abuse reporting requirements for individuals working in state Residential Habilitation Centers (RHCs) that are also Intermediate Care Facilities for Persons with Intellectual Disabilities (ICFs/ID).

Vulnerable adult abuse reporting requirements and due process rights are codified in Chapters 388-78A and -97 WAC, and Chapters 74.34 and 34.05 RCW for individuals working in ICFs/ID that are licensed boarding homes or nursing homes. All staff working in ICFs/ID, including state RHCs are subject to the requirements in Chapter 74.34 RCW.

Reasons supporting proposal:

See above.

Statutory authority for adoption: Chapter 74.34 RCW, RCW 74.08.090, and RCW 71A.12.030

Is rule necessary because of a:

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

DATE

December 29, 2010

NAME (type or print)

Katherine Vasquez

SIGNATURE**TITLE**

DSHS Rules Coordinator

Statute being implemented:

Chapters 74.34, 74.39A, and 34.05 RCW

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 05, 2011

TIME: 7:56 AM

WSR 11-02-073

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Department of Social and Health Services

- ☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... John Gaskell	P.O. Box 45600, Olympia, WA 98513	(360) 725-3210
Implementation.... Bob McClintock	P.O. Box 45600, Olympia, WA 98513	(360) 725-2419
Enforcement..... Bob McClintock	P.O. Box 45600, Olympia, WA 98513	(360) 725-2419

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ()

fax ()

e-mail

☒ No. Explain why no statement was prepared.

State operated RHCs do not meet the definition of a "small business."

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: John Gaskell

Address: P.O. Box 45600, Olympia, WA 98504-5600

phone (360) 725-3210

fax (360) 438-7903

e-mail gaskejw@dshs.wa.gov

☐ No: Please explain:

Chapter 388-111 WAC (new chapter)

Highlights of proposed new chapter:

- Clarifies that staff working in RHCs that are ICFs/ID are mandated reporters subject to Chapter 74.34 RCW.
- Specifies when mandated reports must be made to the department and to law enforcement.
- Identifies what may be included in the department's investigation of a mandatory report made under Chapter 74.34 RCW.
- Describes what constitutes notice of a preliminary finding.
- Identifies who may be notified of a preliminary finding.
- Describes how an individual may challenge a department preliminary finding, and the hearing procedures to dispute a preliminary finding.
- Identifies who receives reports of final findings, and the process for disclosing investigative and finding information.
- Defines requirements for appealing an administrative law judge's decision.
- Specifies when service of the department's notice is considered complete and what constitutes proof of service.

The department is proposing the following new sections:

- 388-111-0001 Definitions.
- 388-111-0010 Mandated reporting to the department.
- 388-111-0020 Mandated reporting to law enforcement.
- 388-111-0030 Mandated reporting policies and procedures.
- 388-111-0040 Resident and client protection program—Investigation of reports of abandonment, abuse, neglect, or financial exploitation.
- 388-111-0050 Resident and client protection program—Notice to individual of preliminary findings.
- 388-111-0060 Resident and client protection program—Notice to others of preliminary findings.
- 388-111-0070 Resident and client protection program—Disputing a preliminary finding.
- 388-111-0080 Resident and client protection program—Disputing a preliminary finding—hearing procedures.
- 388-111-0090 Resident and client protection program—Finalizing the preliminary finding.
- 388-111-0100 Resident and client protection program—Reporting final findings.
- 388-111-0110 Resident and client protection program—Appeal of administrative law judge's initial order or finding.
- 388-111-0120 Resident and client protection program—Disclosure of investigative and finding information.
- 388-111-0130 Notice—Service complete.
- 388-111-0140 Notice—Proof of service.